

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:13-CV-00571-RJC  
3:09-CR-00189-03-RJC

MARVIN SUNTATE MOBLEY

v.

UNITED STATES OF AMERICA

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ORDER

**THIS MATTER** comes before the Court upon remand from the United States Court of Appeals for the Fourth Circuit for an evidentiary hearing on Petitioner's claims that trial counsel rendered ineffective assistance in advising him that, if he went to trial and was convicted, a mandatory life sentence could not be imposed because his 1997 South Carolina state conviction under the Youthful Offender Act could not be used to support an enhanced sentence and failing to explain to Mobley prior to trial that the Government could use evidence in the Rule 404(b) notice against him at trial. (Doc. No. 28: Opinion at 4).

Rule 8(c) of the Rules Governing Section 2255 Proceedings requires the appointment of counsel for such a hearing if the petitioner qualifies under 18 U.S.C. § 3006A. Petitioner previously qualified for appointed counsel in the underlying criminal case (Case No. 3:09-cr-189: Doc. No 13: CJA 20), and the Court is not aware of any change in Petitioner's financial status. Accordingly, the Court finds that Petitioner qualifies for appointed counsel in this matter.

**IT IS, THEREFORE, ORDERED** that:

1. an evidentiary hearing limited to the claims detailed above is scheduled for Monday, July 31, 2017, at 9:45 a.m. in a courtroom of the United States Courthouse in Charlotte, North Carolina;
2. the United States Marshal have the defendant Marvin Suntate Mobley (Reg. No. 10305-171) present in Charlotte, North Carolina forthwith, but not later than July 31, 2017, at 9:45 a.m. for the hearing; and
3. the Federal Defender shall designate counsel promptly to represent Petitioner on the limited issues identified for the evidentiary hearing.

The Clerk is directed to certify copies of this Order to Petitioner, the Federal Defender, the United States Attorney, and the United States Marshals Service.

Signed: April 26, 2017



Robert J. Conrad, Jr.  
United States District Judge

